

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN WAYNE ,

Plaintiff,

v.

JOHN E. WETZEL, *et al.*,

Defendants.

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CIVIL ACTION

No. 21-cv-4209

ORDER

AND NOW, this ____ day of December 2023, upon consideration of Defendants' Motion for Stay of Discovery pending decision of Motion for Summary Judgment, or in the alternative, an extension of all pre-trial deadlines and trial by 30 days, it is ORDERED and DECREED that the Motion is GRANTED.

All remaining deadlines, and the trial date, contained in the Court's Scheduling Order, ECF 60, shall be stayed until a decision is issued on Defendants' opposed Motion for Summary Judgment, ECF 74.

In the alternative, all remaining deadlines, and the trial date, contained in the Court's Scheduling Order, ECF 60, shall be extended by 30 days.

BY THE COURT:

Savage, J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN WAYNE ,

Plaintiff,

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JOHN E. WETZEL, *et al.*,

Defendants.

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CIVIL ACTION

No. 21-cv-4209

**DEFENDANTS' MOTION FOR
STAY OF DEADLINES UNTIL DECISION ISSUED ON
OPPOSED MOTION FOR SUMMARY JUDGMENT**

Defendants Wetzel, Little, Bickell, Ferguson and Harry (collectively “Commonwealth Defendants”), by counsel, hereby move this Court pursuant to Federal Rule of Civil Procedure 6(b) to stay all remaining pre-trial deadlines and the trial date, contained in the Court’s Scheduling Order, ECF 60, pending decision of the Defendants’ opposed Motion for Summary Judgment. In the alternative, Commonwealth Defendants respectfully request that this Court extend all pre-trial deadlines, and the trial date, by 30 days¹.

¹ Defendants reached out to Plaintiff for consent of this application; however, Plaintiff will be filing his response separately.

Dated: December 13, 2023

Respectfully submitted,

MICHELLE A. HENRY
Attorney General

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
The Phoenix Building
1600 Arch St., 3rd Floor
Philadelphia, PA 19103
Telephone: (267) 768-3964
Fax: (717) 772-4526
skaplan@attorneygeneral.gov

BY: /s/ Sarina Kaplan
Sarina Kaplan (Pa. No. 209738)
Senior Deputy Attorney General

KAREN M. ROMANO
Chief Deputy Attorney General
Civil Litigation Section

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No. 21-cv-4209

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Just prior to the close of discovery, Plaintiff filed an application to Amend his Complaint to add Acting Executive Deputy Secretary Ferguson and Secretary Harry. Plaintiff then requested the deposition of EDSI Ferguson, despite the imminent end of discovery. In a good faith effort to accommodate Plaintiff's late request, Commonwealth Defendants permitted Plaintiff to depose Ms. Ferguson after the close of discovery, and despite not yet being added as a defendant, on November 8, 2023.

During discovery, Commonwealth Defendants worked expeditiously to complete written discovery, including Defendants' production of over 2000 pages of documentation; and the depositions of Plaintiff, Wetzel, Little, Bickell and Ferguson.

Because of the late addition of new defendants, Commonwealth Defendants requested a short extension to file their Motion for Summary Judgment, to allow time to receive the transcript of Defendant, Ferguson. ECF 65. Although Plaintiff did not in-kind request an extension of the deadline contained in the Court's Scheduling Order, ECF 60, Plaintiff filed Opposition pursuant to L.R.7.1(c), and filed late in the evening of December 12, 2023. ECF 75.

Commonwealth Defendants intend to file a Reply in support of their Motion for Summary Judgment, based upon the issues in dispute, which are questions of law only; however, the current Court's Scheduling Order prejudices Commonwealth Defendants from meaningfully responding to Plaintiff's Opposition, ECF 75, while simultaneously complying with pre-trial deadlines that become due on or around the same time. ECF 60.

II. ARGUMENT

A court has the authority under the Rules of Civil Procedure, for good cause, to extend the time for any party to respond to a complaint. Fed. R. Civ. P. 6(b). Here, there is good cause to stay all remaining discovery deadlines contained in the Court's Scheduling Order, ECF 60, pending decision in the Defendants' Opposed Motion for Summary Judgment, or, in the alternative, extend by 30 days, because Commonwealth Defendants would like an opportunity to respond to Plaintiff's Opposition. With pre-trial deadlines pending, including Defendants' Pre-Trial Memoranda; designations of deposition testimony and objections thereto; and Motions in Limine, Commonwealth Defendants will be unable to simultaneously prepare a meaningful response to Plaintiff's Opposition, while also trying to comply with the Court's Scheduling Order that contains deadlines that become due on or around the same time. ECF 60. Lastly, the remaining deadlines and trial date may become moot based upon the outcome of Defendants' Motion for Summary Judgment.

III. CONCLUSION

Wherefore, Defendants Wetzel, Little, Bickell, Ferguson and Harry, respectfully request that this Court stay all remaining pre-trial deadlines contained in the Court's Scheduling Order, ECF 60, pending decision in the Defendants' Opposed Motion for Summary Judgment, or, in the alternative, extend all pre-trial deadlines and trial date, contained in the Court's Scheduling Order, ECF 60, by 30 days.

Dated: December 13, 2023

Respectfully submitted,

MICHELLE A. HENRY
Attorney General

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
The Phoenix Building
1600 Arch St., 3rd Floor
Philadelphia, PA 19103
Telephone: (267) 768-3964
Fax: (717) 772-4526
skaplan@attorneygeneral.gov

BY: /s/ Sarina Kaplan
Sarina Kaplan (Pa. No. 209738)
Deputy Attorney General

KAREN M. ROMANO
Chief Deputy Attorney General
Civil Litigation Section

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CERTIFICATE OF SERVICE

I, Sarina M. Kaplan, Senior Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, hereby certify that on December 13, 2023, a true and correct copy of the foregoing Motion for Stay of Discovery Pending Decision in Defendants' Motion for Summary Judgment, or, in the alternative, extension of 30 days, and memorandum of law in support, has been filed electronically and is available for viewing and downloading from the Court's Electronic Case Filing System.

Dated: December 13, 2023

/s/ Sarina Kaplan
Sarina Kaplan